

CID-SAM Management Corp. and AL-ED Management Corp. and Service Employees International Union, Local 32E, AFL-CIO. Case AO-316

January 10, 1995

ADVISORY OPINION

BY CHAIRMAN GOULD AND MEMBERS STEPHENS
AND BROWNING

Pursuant to Sections 102.98(a) and 102.99 of the National Labor Relations Board's Rules and Regulations, on October 31, 1994, Richard Laubsch and Martin Shapiro, the Petitioners, filed a Petition for an Advisory Opinion as to whether the Board would assert jurisdiction over CID-SAM Management Corp. (CID-SAM) and AL-ED Management Corp. (AL-ED). In pertinent part, the petition alleges as follows:

1. An unfair labor practice proceeding against CID-SAM, Cases SU-58823 and SU-58824, is currently pending before the New York State Labor Relations Board (NYSLRB) in which the Service Employees International Union 32E, AFL-CIO, the Union, is alleging that on or about August 26, 1994, CID-SAM refused to bargain with the Union and discharged John Echevarria because of his union affiliations.

2. Petitioners are the managing agents for two residential buildings. One building is located at 2675 Morris Avenue, Bronx, New York, and is owned by CID-SAM, a residential real estate corporation, and the other building is located at 2-6 East 167th Street, Bronx, New York, and is owned by AL-ED, also a residential real estate corporation.

3. Petitioners jointly own, control and manage CID-SAM and AL-ED, and are managing agents for CID-SAM and AL-ED and control all aspects of both buildings.

4. CID-SAM generates gross revenue of \$267,587 and pays in excess of \$25,000 annually for fuel oil and other related products effecting interstate commerce. AL-ED generates gross revenue of \$318,145 and pays in excess of \$25,000 annually for fuel oil in addition to paying more than \$16,500 annually to various other suppliers engaged in interstate commerce for other maintenance and repair materials. Collectively, the two buildings jointly managed and controlled by Petitioners generate gross revenues in excess of \$585,000 annually and have a significant effect on interstate commerce.

5. The Petitioners are unaware whether the Union admits or denies the aforesaid commerce data and the NYSLRB has not made any findings with respect thereto.

6. There are no representation or unfair labor practice proceedings involving the parties' labor dispute pending before the Board.

Although all parties were served with a copy of the Petition for Advisory Opinion, no response was filed.

Having duly considered the matter,¹ the Board is of the opinion that it would assert jurisdiction over CID-SAM and AL-ED. The Board has established a \$500,000 discretionary standard for asserting jurisdiction over residential buildings.² Although CID-SAM and AL-ED do not separately meet this standard, it is well established that the commerce data of joint or single employers may appropriately be combined for jurisdictional purposes.³ Here, the petition alleges that CID-SAM and AL-ED are jointly owned, controlled and managed by the Petitioners, and that their combined annual income is in excess of \$585,000. Thus, assuming that CID-SAM and AL-ED are in fact a joint or single employer of the employees at the two buildings, it appears that CID-SAM and AL-ED satisfy the Board's discretionary standard.⁴ As the petition alleges that CID-SAM and AL-ED each pay in excess of \$25,000 annually for fuel oil and other products in or from employers engaged in interstate commerce, it appears that they also satisfy the Board's statutory standards.⁵

Accordingly, the parties are advised that, based on the foregoing allegations and assumptions, the Board would assert jurisdiction over the Employer.

¹ The Board has delegated its authority in this proceeding to a three-member panel.

² See *Parkview Gardens*, 166 NLRB 697 (1967) (residential apartments), and *Imperial House Condominium*, 279 NLRB 1225 (1986), affd. 831 F.2d 999 (11th Cir. 1987) (condominiums and cooperatives).

³ See 373-381 *South Broadway Associates*, 304 NLRB 1108 (1991).

⁴ The Board has traditionally aggregated the gross revenues derived from all residential buildings managed by an employer in determining whether the employer satisfies the Board's discretionary standard. See, e.g., *Mandel Management Co.*, 229 NLRB 1121 (1977).

⁵ We assume in this regard that any local suppliers from which CID-SAM and AL-ED purchased the oil and other products had received the oil and other products directly from outside the State of New York. See 373-381 *South Broadway Associates*, 303 NLRB 973 fn. 6 (1991).